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POLICY STATEMENTS

**Issued Under Section 3
of the Planning Act 1983.**

**Ministry of Municipal Affairs
777 Bay Street, Toronto M5G 2E5**

PLANNING ACT POLICY STATEMENTS

Introduction

Planning, by its nature, involves the resolution of conflicts between competing demands for land and resources. A municipality must, therefore, be aware of the objectives of other levels of government in order to establish a firm basis for its own planning policies. For some time, municipalities have called for a clearer indication of provincial policies in matters affecting local planning, and section 3 of the Planning Act, 1983 enables this to be done through the issuance of policy statements.

The purpose of policy statements is to enable the province, from time to time, to set down its objectives on matters of planning concern that apply beyond any one individual municipality. The statements should assist municipalities in understanding what specific provincial objectives are and will form part of the framework within which municipalities can plan.

Section 3 of the Planning Act requires that municipalities, in carrying out their own planning functions, “have regard to” these statements. At the same time the OMB, provincial ministries and agencies are **also** required by the legislation to “consider” such statements in carrying out their varied responsibilities.

In unorganized areas or other places where no local planning policies exist, the statements will still form a guide to the province’s general intentions.

Preparation of Policy Statements

Depending on the nature of the particular provincial concern, policy statements may be initiated by the Minister of Municipal Affairs alone or jointly with other ministers whose responsibilities affect local planning.* The Planning Act requires that before a policy statement is approved, the Minister confer with those who are considered to have an interest in the matter.

Copies of a proposed statement will be sent to all municipalities in the province, the Association of Municipalities of Ontario and other interest groups, and comments will be invited. All submissions will be evaluated by the ministries responsible for the statement and revisions made where appropriate. Following approval by the ministers involved and the Cabinet, statements will be published in the **Ontario Gazette** and sent to all municipalities and others considered affected. Municipalities should note that the Planning Act requires that they, in turn, are to give notice of the statement to any local boards that would have an interest in the matter.

Any amendments to policy statements will be processed in the same way.

Format of Policy Statements

As far as possible, the same format will be used in all policy statements. Each statement will usually contain the following:

A) Purpose

A statement that the document is prepared under the authority of section 3 of the Planning Act and represents the Province of Ontario’s policy on the particular concern.

* e.g., Ministries of Natural Resources, Environment, Agriculture and Food.

B) Interpretation

A clear statement setting out which ministries are responsible for the policy and indicating that no single policy statement takes precedence over other policy statements issued under the Act.

C) Background

An explanation of why the statement is needed and what it is generally intended to accomplish.

D) Definitions

A precise indication of what key terms in the statement mean.

E) Basis of Policy

A statement of the basic principles underlining the policy statement.

F) Policy

A clear statement of the actual policy or policies indicating the application to official plan, zoning by-law or other instruments where appropriate.

G) Implementation

A statement of how the province and its agencies and municipalities should apply and use the statement.

Nature and Application of Policy Statements

It is likely that most policy statements will be issued by the Minister of Municipal Affairs jointly with another minister or ministers.

As policy statements are issued, they will clarify specific provincial concerns to be borne in mind when developing or reviewing official plans, zoning by-laws and other planning proposals. They will provide as clear a basis as possible for understanding and accounting for such specific interests.

Before a policy statement is issued, the general principles contained in it will have been tried and tested through the prior use of guidelines or other expressions of provincial interest on the same subject. This should enable the policy itself to be put into place relatively smoothly. Publication of a statement implies a provincial commitment to it and its support by all ministries and agencies of the province.

In using policy statements, the province is asking municipalities to plan not only for their own present and future residents but also to look beyond their own boundaries. A municipality should recognize that it may possess, for example, natural resources or recreational features of unique significance that are more than simply a local resource.

It is recognized that the significance of a particular statement, however, may vary from area to area depending on factors such as the extent and quality of a resource, special

needs or previous planning commitments. Therefore, the application of a statement may vary between urban and rural, and smaller and larger municipalities.

In order to provide this flexibility, the Act does not require compliance but requires that municipalities and others “have regard to” policy statements. A municipality, for example, is obligated to consider the application of a specific policy statement and, in general, to follow its provisions unless it can be demonstrated why the policy is not applicable or is applicable to a lesser degree in a certain case.

While the language of the Act itself provides flexibility, the degree of flexibility will depend in some cases on the nature of individual statements. For example, there may be very limited flexibility in the application of noise standards to development in the vicinity of freeways and airports.

In using an approved policy statement, a municipality must first decide if that statement applies in a particular situation. If it does, the statement’s objectives should be reflected in local policies. When reviewing or approving municipal policies, the Ministry of Municipal Affairs and other reviewing and approving authorities will take a similar approach: i.e. did the municipality have regard to the particular policy, and is it adequately reflected? If it is not, can it be demonstrated how and why the municipality could not reasonably meet the province’s policy?

In a similar way, the Ontario Municipal Board must “have regard to” policy statements in examining matters referred to it or appealed to it. In cases where a statement appears **not** to have been taken into account, the onus will be on the municipality to demonstrate to the Municipal Board why the policy could not be followed. The Board would then make a judgement on both whether the municipality did genuinely “have regard to” the statement and the adequacy of the expression of provincial policy in the municipal planning document.

Once a provincial policy statement has been formally issued under the Planning Act, and an official plan is subsequently approved by the Minister, or a delegated authority, it will be considered to have “had regard to” that particular policy statement. Where an existing official plan has been approved prior to the issuance of a policy statement under the Act, it can obviously not be considered to have “had regard” to the policy statement.

In applying a particular policy statement the focus should **not** be on judging the merits of the policy itself. The making of policy should be viewed as one of the key functions of the Government, and the policy is approved by Cabinet only after public comment has been received. The focus of the review should be on **how** the policy is, or is not, being applied to the specific planning issue in question.

In some cases more than one policy statement may be involved. No single statement will take precedence over another, but the facts at issue may lead to a decision in favour of one policy statement at the expense of another. Approving and review authorities will have to carefully apply the flexibility inherent in the policy statement concept to make the best possible decision in these circumstances. From time to time, the province’s concern in a particular issue involving a policy statement may be such that government representatives take a direct part in any hearings involved. However, in most cases it is expected that policy statements will be self-explanatory indications of general provincial interests that do not require direct government participation in a hearing in support of the policy for it to be effective.

In rare cases, it is possible that the provisions of section 23 of the Planning Act will be used. This enables the Minister of Municipal Affairs to initiate an amendment to a municipality’s official plan if it is felt that a matter of provincial interest set out in a policy

statement is, or is likely to be, adversely affected. This extreme step will not be taken lightly. It will only be used in cases where a policy statement is either being violated or ignored in an extreme way to the point where the relevance of the policy itself would be put in jeopardy.

In summary, the criteria for defining the nature and content of Provincial Policy Statements are:

- 1) Must address an area of provincial concern that clearly affects the province as a whole, or significant parts of it.
- 2) Must be related to the process of municipal planning provided for in the Planning Act.
- 3) Must represent a reasonable position that the province is willing to justify and, if necessary, defend.
- 4) Must be firm and specific enough to be meaningful, yet flexible enough to allow realistic interpretation in varying circumstances.
- 5) Must not go beyond what can be interpreted as being within the legislative mandate of the ministries issuing the policy.
- 6) Must clearly delineate the basis of any specific criteria upon which the policy is founded.

Other Provincial Interests

The matters of provincial interest set out in section 2 of the Planning Act are broad in scope and general in nature. Not all matters of provincial concern set out in section 2 will find expression in policy statements issued under section 3.

The present practice of individual ministries issuing policies on issues of planning concern within their mandate is likely to continue. However, most of them will not have been subjected to the public scrutiny and discussion which is required of Planning Act statements. In addition, they will not necessarily receive Cabinet approval before they are issued.

While some of these policies may subsequently be issued as policy statements under the Planning Act, following public review and discussion, not all of them will be. In addition, the Ministry of Municipal Affairs and other ministries from time to time issue technical and advisory guidelines to assist municipalities and others in understanding and working with various planning issues and procedures. It should be stressed that these guidelines will remain purely advisory.

The Planning Act enables certain matters to be declared as being of provincial interest upon referral or appeal to the Ontario Municipal Board. Where this happens, the decision of the OMB on the matter is not final and binding unless confirmed by the Cabinet. The decision may also be varied or rescinded. This procedure replaces the former appeal to Cabinet procedure which was dispensed with under the Planning Act, 1983.

A matter which is declared to be of provincial interest before the OMB may be the subject of a policy statement issued under section 3, but is not restricted to this. Any matter falling within the scope of section 2 may be declared to be of provincial interest before the OMB, whether a formal policy statement has been issued or not.

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Ontario

Ministry of
Municipal
Affairs

Bernard Grandmaître, Minister



POLICY STATEMENT

Mineral Aggregate Resources

A statement of Ontario Government
policy issued under the authority of
Section 3 of the Planning Act 1983

Approved by the
Lieutenant Governor in Council
Order in Council No. 1249-86
May 9, 1986

A handwritten signature in black ink, reading "Vincent L. Savio".

Minister of
Natural
Resources

A handwritten signature in black ink, reading "J. S. Macdonald".

Minister of
Municipal Affairs

The Planning Act, 1983, Section 3

Policy
statements

3.—(1) The Minister, or the Minister together with any other minister of the Crown, may from time to time issue policy statements that have been approved by the Lieutenant Governor in Council on matters relating to municipal planning that in the opinion of the Minister are of provincial interest.

Minister to
confer

(2) Before issuing a policy statement, the Minister shall confer with such municipal, provincial, federal or other officials and bodies or persons as the Minister considers have an interest in the proposed statement.

Notice

(3) Where a policy statement is issued under subsection (1), the Minister shall cause it to be published in *The Ontario Gazette* and he shall give or cause to be given such further notice thereof, in such manner as he considers appropriate, to all members of the Assembly, to all municipalities and to such other agencies, organizations or persons as he considers have an interest in the statement.

Idem

(4) Each municipality that receives notice of a policy statement under subsection (3) shall in turn give notice of the statement to each local board of the municipality that it considers has an interest in the statement.

Regard to
be had to
policy
statements

(5) In exercising any authority that affects any planning matter, the council of every municipality, every local board, every minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro, shall have regard to policy statements issued under subsection (1). 1983, c. 1, s. 3.

Purpose

This document is prepared under the authority of Section 3 of the Planning Act and is the Province of Ontario's policy statement on planning for mineral aggregate resources.

Interpretation

This provincial policy statement:

- is issued jointly by the Minister of Municipal Affairs and the Minister of Natural Resources under the Planning Act.
- does not supersede or take priority over other policy statements issued under this Act, or any other policy approved by the Lieutenant Governor in Council for any specific area of the province.
- replaces the "Mineral Aggregate Resource Planning Policy" approved by Cabinet, December 22, 1982.

Background

Mineral aggregates are vital to Ontario's economy. In 1980, for example, approximately 120 million tonnes or more than fourteen tonnes of mineral aggregate per capita were used in Ontario.

Although potential reserves exist in many parts of the Province, a reduction in the availability of mineral aggregates is occurring as a result of:

- depletion of near market supplies;
- effective elimination of some valuable mineral aggregate sources by other development, for example housing, occurring over or adjacent to the deposits; and
- restrictive controls which make the establishment and operation of pits and quarries difficult.

A scarcity of mineral aggregates is occurring within certain parts of Ontario. This results in increased mineral aggregate costs whether through hauling the material from distant sources; through using more expensive substitute materials; or through using more expensive processing techniques to upgrade lower quality materials. Such increased costs are ultimately transferred to the consumer. Therefore it is important that sufficient mineral aggregate resources are available to meet the future needs of Ontario residents.

This policy statement establishes mineral aggregate resources as a matter of provincial interest and concern. It includes specific policies to ensure that regard is paid to the importance of mineral aggregates and that the overall provincial interest is taken into account in any related planning action.

Definitions

For the purpose of this policy statement,

- **Mineral Aggregates** means:

sand, gravel, shale, limestone, dolostone, sandstone and other mineral materials suitable for construction, industrial, manufacturing and maintenance purposes, but does not include metalliferous minerals, fossil fuels, or non-aggregate industrial minerals such as asbestos, gypsum, nepheline syenite, peat, salt and talc or mine tailings.

- **Legally Existing Pits and Quarries** means:

- a) lands under licence or permit, other than wayside pits and quarries, issued in accordance with the Pits and Quarries Control Act, or the Mining Act, or successors thereto; and
- b) for lands not under licence or permit, established pits and quarries that are not in contravention of municipal zoning by-laws and including adjacent land under agreement with or owned by the operator, to permit continuation of the operation.

- **Wayside Pit or Wayside Quarry** means:

a temporary pit or quarry opened and used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right-of-way.

Principles

The following mineral aggregate resource planning principles are recognized as the basis for the policies contained in this document.

- Mineral aggregates are essential non-renewable natural resources. They should be recognized as important components in any comprehensive land use or resource management program.
- Mineral aggregates should be available to the consumers of Ontario at a reasonable cost.
- All parts of Ontario possessing mineral aggregate resources share a responsibility for meeting future provincial demand. Mineral aggregate resources vary in quality and significance. Demand for them varies depending on location and circumstances.
- Notwithstanding the need for mineral aggregates, it is essential to ensure that extraction is carried out with minimal social and environmental cost. The protection of the natural environment is of particular importance, as is the wise management of the province's physical resources. In this regard there is a recognized need to develop policy and regulatory provisions that:

- a) establish good operating standards;
 - b) ensure rehabilitation; and
 - c) establish evaluation and approval procedures for creating new operations and expanding existing operations.
- The supply of mineral aggregates as an essential construction material, is important to the overall development of any area. It is necessary to maintain sources of supply as close to markets as possible until such time as long distance transportation may become feasible.
 - Other land uses may in specific instances, take precedence over aggregate extraction, including wayside pits and quarries.
 - Wayside pits and quarries are needed on a temporary basis and often at short notice to supply mineral aggregates for certain projects of public authorities such as roads, at minimum cost to the taxpayer. Consultation with municipalities will be followed to ensure minimal adverse impacts on the social and natural environment and to ensure effective rehabilitation. The Ministry of Natural Resources shall have regard for policies approved by the Lieutenant Governor in Council for any specific area of the province before issuing a wayside pit or quarry permit.
 - Municipalities have an important role in planning for mineral aggregate resources and aggregate operations and should encourage the concept of extraction as an interim land use activity.

Policy

1. GENERAL

It is the policy of the Province of Ontario that:

- 1.1 All land use planning and resource management agencies within the province have regard for the implications of their actions on the availability of mineral aggregate resources to meet future local, regional and provincial needs.
- 1.2 Any planning jurisdiction, including municipalities and planning boards, identify and protect as much of its mineral aggregate resources as is practicable, in the context of other land use planning objectives, to supply local, regional and provincial needs.

2. OFFICIAL PLANS

It is the policy of the Province of Ontario that official plans:

- 2.1 Identify and protect legally existing pits and quarries from incompatible land uses.
- 2.2 Identify and protect from land uses, which are incompatible with possible future extraction, as much of the mineral aggregate resources occurring in the municipality as is realistically possible in the context of the municipality's other land use planning objectives, and in recognition of the continuing local, regional and provincial need for mineral aggregates.

- 2.3 May establish policies to permit non-aggregate land uses or developments in areas of mineral aggregate resources, which are protected in the official plan, where it can be shown that:
- a) extraction would not be feasible; or
 - b) the proposed land use or development serves a greater long term interest of the general public than does aggregate extraction; or
 - c) the proposed land use or development would not significantly preclude or hinder future extraction.
- 2.4 Provide a clear and reasonable mechanism to permit the establishment or expansion of pits and quarries, including policies that:
- a) outline any amendments that may be required to the official plan and/or zoning by-law; and
 - b) specify the information required and the matters to be considered by a municipality to evaluate an amendment application, including information on the protection of existing land uses and the natural environment.
- 2.5 Permit wayside pits and quarries without requiring an amendment to the plan or zoning by-law, except the plan may require a rezoning for a wayside pit or quarry in areas of existing development or particular environmental sensitivity which are designated in the plan.
- 2.6 May require rehabilitation to an after-use compatible with the long term uses permitted by the plan.*

3. ZONING BY-LAWS

It is the policy of the Province of Ontario that zoning by-laws:

- 3.1 Regulate all legally existing pits and quarries in such a way that these operations are a permitted activity with no uses or other activities permitted within the zoning category, that would be incompatible with mineral aggregate operations.
- 3.2 In those municipalities not subject to an official plan, protect mineral aggregate deposits identified by the Ministry of Natural Resources in conjunction with the municipality, by placing these lands in a zoning category which prohibits uses that are incompatible with possible future extraction.
- 3.3 Permit wayside pits and quarries in all zoning categories, except in zones which are established to recognize existing development or areas of particular environmental sensitivity, where wayside pits and quarries may be prohibited.

Implementation

- In exercising any authority that affects any planning matter, the council of every municipality, every local board, every Minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and

* In parts of Ontario designated under the Pits and Quarries Control Act, rehabilitation is mandatory.

Ontario Hydro, shall have regard to policy statements as required under Section 3 of the Planning Act.

- The Ministry of Natural Resources, within the context of its mandate to manage mineral aggregate resources at the provincial level, will:
 - a) provide all pertinent geological information, including mineral aggregate resource mapping and technical assistance, to any government body or planning authority, in particular municipalities, and assist municipalities to define and protect mineral aggregate resource areas.
 - b) provide comments to planning review and approval agencies on proposed planning actions that may have implications for mineral aggregate resource development.
 - c) prepare guidelines for the Ministry, municipalities and other agencies responsible for mineral aggregate resource planning and management, to assist in implementing this policy statement.
 - d) undertake research programs to investigate a wide array of mineral aggregate resource management topics, including the investigation of alternative sources of supply.
 - e) make representation or provide technical expertise to the Ontario Municipal Board or other appeal body, where a planning matter related to this policy statement may be an issue.
 - f) administer and enforce the provisions of the Pits and Quarries Control Act and the Mining Act, or successors thereto.
 - g) encourage the concept of extraction as an interim land use activity. Toward this end the Ministry shall:
 - encourage operators of extraction sites to make the most effective use of the land resource;
 - encourage sequential land use and progressive and ultimate rehabilitation with the active extraction area limited to a minimum practical size;
 - encourage operation of the site in a manner as compatible as possible with surrounding land uses and activities; and
 - encourage all depleted extractive sites, including wayside pits and quarries, to be returned to a condition suitable for an acceptable after use and compatible with adjacent land uses.
 - h) establish, in conjunction with the Ministry of Transportation and Communications, procedures for approval, operation and rehabilitation of wayside pits and quarries used to supply aggregate for projects of that Ministry.
 - i) encourage aggregate producers to embody the spirit of wise mineral aggregate resource management.
 - j) consult with ministries, public agencies, boards, authorities, and municipalities on matters pertaining to mineral aggregate resources, as may be appropriate.

- The Ministry of Municipal Affairs and the Ministry of Natural Resources will jointly administer this policy statement; as well as advise and explain its content and application to municipalities and other planning agencies.
- Other Ministries have responsibilities relating to pits and quarries and they will provide input to the planning process as appropriate.
- Existing approved official plans and zoning by-laws shall be considered with regard for this policy statement at such time as they come up for review.

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La version française de cette déclaration de principes est disponible sur demande.

Mineral Aggregate Resources Policy Statement

A Guideline on Implementation

May, 1986



Ministry of
Natural
Resources

Hon. Vincent G. Kerrio
Minister

Mary Mogford
Deputy Minister

Mineral Aggregate Resources Policy Statement

A Guideline on Implementation

May, 1986

THIS GUIDELINE IS ADVISORY ONLY AND MUST BE
READ TOGETHER WITH THE MINERAL AGGREGATE
RESOURCES POLICY STATEMENT

Prepared by
Ministry of Natural Resources
in consultation with
Ministries of Municipal Affairs,
Agriculture and Food, Environment
and Transportation and Communications



Ontario

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1. INTRODUCTION

This advisory guideline for municipal planning authorities explains some options for implementing the Mineral Aggregate Resources Policy (MARP) Statement under the Planning Act and should be used with discretion. The options identified in this guideline may not be all inclusive. Other options may have merit and should be discussed with Ministry of Natural Resources and Ministry of Municipal Affairs officials.

This guideline recognizes the official plan as the main instrument for expressing municipal planning policy and the zoning by-law as the major means of implementing municipal planning policy. New official plan policies for existing pits and quarries are not retroactive.

Each numbered section in this guideline begins by quoting the associated section of the policy statement.

For information on how to implement the MARP Policy Statement in conjunction with others to be issued under the Planning Act, reference should be made to the document entitled "Guideline to Policy Statements under the Planning Act", prepared by the Ministry of Municipal Affairs.

In preparing official plan and zoning by-law provisions with regard for the MARP Policy Statement, more detailed information is available from the local Ministry of Natural Resources (MNR) district office or the Ministry of Municipal Affairs (local Community Planning Advisory Branch Office or Plans Administration Branch). Contact with MNR should occur at the onset of any planning program.

Other Ministries may have interests relating to mineral aggregate resource planning and should be consulted early in the planning process. For example:

- The Ontario Ministry of Agriculture and Food (OMAF) is responsible for the preservation of agricultural land and the maintenance of the soil's capability for agriculture. OMAF's land use policies are outlined in the Foodland Guidelines.*
- The Ministry of the Environment (MOE) is responsible for the minimizing of environmental impacts. In general, areas of interest include surface and ground water impacts, noise and vibration, air quality, incompatible or conflicting land uses, soil contamination, and site drainage.
- The Ministry of Transportation and Communications (MTC) is responsible for ensuring that reliable supplies of sand, gravel, crushed stone, and earth borrow or fill are available for use in MTC highway construction and maintenance projects.

* The proposed Foodland Preservation Policy Statement was being circulated for public comment at the time this guideline was issued.

- The Ministry of Municipal Affairs is responsible for the administration of the Niagara Escarpment Planning and Development Act and should be consulted in respect to application of MARP to areas within the Niagara Escarpment Plan.

2. OFFICIAL PLANS

2.1 Legally Existing Pits and Quarries

"It is the policy of the Province of Ontario that official plans identify and protect legally existing pits and quarries from incompatible land uses."

Discussion:

Legally existing pits and quarries, defined in the MARP Statement, can be identified by:

- designation on the land use schedule; or
- designation on a separate map in the plan; or
- illustration on a map in an appendix to the plan; or
- by an official plan policy that all legally existing pits and quarries are to be identified or designated and placed in a separate zoning category in the implementing zoning by-law(s).

Official plan policies can protect legally existing pits and quarries by:

- permitting all legally existing pits and quarries to continue their operations; and
- prohibiting incompatible land uses and activities, both on site and adjacent to these operations.

Municipal planning authorities, in consultation with MOE/MNR may consider using the influence area approach to minimize land use conflicts when preparing official plan policies to protect legally existing pits and quarries.

An influence area is the area surrounding a pit or quarry where the impacts of the operation may be felt on the environment, nearby residents and land uses. The size of an influence area will vary from site to site, depending on many factors including size, type of pit or quarry operation, location, type and intensity of surrounding land uses, etc. The influence area concept is intended to protect existing or designated sensitive land uses from proposed pits or quarries and existing or designated pits or quarries from encroachment by sensitive uses, based on pertinent information respecting surface and ground-water, noise, vibration, dust, etc.

Although influence areas must be determined on a case-by-case basis, criteria (which may include those factors listed above) may be established in the official plan to help a municipality determine the size of an influence area surrounding a pit or quarry. MOE should be consulted for details concerning appropriate environmental matters requiring consideration.

2.2 Mineral Aggregate Resource Areas

"It is the policy of the Province of Ontario that official plans identify and protect from land uses, which are incompatible with possible future extraction as much of the mineral aggregate resources occurring in the municipality as is realistically possible in the context of the municipality's other land use planning objectives, and in recognition of the continuing local, regional and provincial need for mineral aggregates."

Discussion:

Options for identifying and protecting mineral aggregate resources include:

- Official Plan Policy Referring to MNR Resource Maps

In this option, there is no mineral aggregate resource map in the official plan, but the plan contains general policies for the protection of mineral aggregate resources. The text makes reference to MNR maps (e.g. "Aggregate Resource Inventory Papers"), available at MNR district offices and/or on file at the municipal offices.

The official plan policies should clearly recognize that extraction may not be feasible or advisable throughout all areas of the identified aggregate resources. However, when considering applications for redesignation, rezoning, plans of subdivision or land severances, regard will be had for the need to protect land for the future extraction of mineral aggregate resources, as shown on the MNR reference maps, in consultation with MNR staff. (MNR's maps are for municipal information and reference only).

- Official Plan Policy on Mineral Aggregate Resource Areas

The official plan policy refers to mineral aggregate resources in one or more specific geographic areas described in words only (e.g. area of municipality south of Fifth Sideroad). Official plan policies protecting these resources from incompatible uses would require planning applications for new developments in the specified geographic areas to be considered with a view to their impact on the mineral aggregate resources through consultation with MNR.

- Mineral Aggregate Resource Map as an Official Plan Appendix with Related Policies

A map in the appendix of the official plan identifies mineral aggregate resource areas selected for protection by the municipality in consultation with MNR. The map is not part of the approved official plan but would show resource information useful to council and the public.

The purpose of the appended map is to provide a mineral aggregate inventory which the municipality, and others, can consider before permitting a proposed land use to occur. Some uses would, of course, prevent future extraction from occurring (e.g. high density residential). In making its decision, the municipal council would have the pertinent resource information at hand. It could consider, in light of overall planning rationale, whether extraction would be feasible or whether the proposed use would preclude or hinder future extraction, or whether the proposed use is of higher priority than mineral aggregate extraction, given local circumstances and the municipality's planning objectives.

- A Map in the Official Plan

A map identifying mineral aggregate resource areas, selected by the municipality, in consultation with MNR, could be included in the official plan. Changes to this map would require an official plan amendment. The map may be separate from the Land Use Schedule or part of it as an overlay. In the latter case, the mineral aggregate resource areas would be shown superimposed on the actual land uses of the Land Use Schedule.

The overlay would not constitute a separate land use designation, but would indicate a constraint on development.

The official plan map would advise council and the public that mineral aggregate resource protection is to be considered before decisions on land use changes are made. Appropriate policies to this effect would be found in the text of the plan. Use of this option should not preclude the land uses committed by the designation on the Land Use Schedule.

- Designation on the Official Plan Land Use Schedule

This option involves designating mineral aggregate resource lands on the Land Use Schedule and prohibiting uses which are not compatible with aggregate operations.

Since official plan amendments would not be needed to permit new pits and quarries in designated areas, official plan policies should describe the municipal interests in pit and quarry uses when assessing applications to amend zoning by-laws and applications under the Pits and Quarries Control Act.

2.3 Permitting Non-Aggregate Land Uses in Mineral Aggregate Resource Areas Identified and Protected by the Official Plan

"It is the policy of the Province of Ontario that official plans may establish policies to permit non-aggregate land uses or developments in areas of mineral aggregate resources, which are protected in the official plan, where it can be shown that:

- a) extraction would not be feasible; or
- b) the proposed land use or development serves a greater long-term interest of the general public than does aggregate extraction; or
- c) the proposed land use or development would not significantly preclude or hinder future extraction."

Discussion:

If non-aggregate uses are to be allowed in mineral aggregate resource areas, the official plan should acknowledge the three criteria stated in the policy and state the matters to be considered in permitting these uses. These matters should include:

- the necessity of the land use in comparison to the value of the mineral aggregate deposit, taking into account the extent, type and quality of areas of mineral aggregate resources in the municipality;
- the reason for the choice of location and an appraisal of alternative locations for the non-aggregate land use on non-aggregate lands;
- the feasibility of sequential land use in which the mineral aggregate is removed prior to the proposed use;

- the impact that the proposed use may have on any existing pits and quarries in the vicinity and on future aggregate extraction in the surrounding mineral aggregate protection area;
- whether or not the mineral aggregate has been extracted or further studies have indicated that the aggregate resource on the specific site is not economically viable; and
- whether or not existing, adjacent uses within the influence area are incompatible and may make future extraction impossible.

2.4 Establishment of New Pits and Quarries

"It is the policy of the Province of Ontario that official plans provide a clear and reasonable mechanism to permit the establishment or expansion of pits and quarries, including policies that:

- a) outline any amendments that may be required to the official plan and/or zoning by-law; and**
- b) specify the information required and the matters to be considered by a municipality to evaluate an amendment application, including information on the protection of existing land uses and the natural environment."**

Discussion

In preparing official plan policies, council should consider what, if any, amendments are required to permit a new aggregate operation or expansion. Some possibilities include the following:

- no official plan or zoning by-law amendment in areas designated for mineral aggregate extraction; or
- a zoning by-law amendment only; or
- amendments to both the official plan and zoning by-law.

The official plan should include a policy(ies) setting out the environmental and other matters to be addressed in the review of pit and quarry proposals.

Official plan policies should also specify the pertinent information required of an applicant and matters to be considered by council in deciding on official plan and/or zoning by-law amendments for the proposed pit, quarry or expansion. To be fair with all applicants, the information and the matters council should consider in making decisions should be similar unless circumstances justify further information or studies. The parameters of such requirements for additional information or studies should be established in consultation with the appropriate provincial Ministries.

Criteria may be established in the official plan to help a municipality decide on the size of an influence area surrounding a pit or quarry. This ensures that a municipality can assess the suitability of an application and whether or not to grant planning permission (through whatever type of planning mechanism(s) is required by the plan).

Official plans should also have regard to the requirements of the Foodland Guidelines, or its successor, in the establishment of new pits and quarries.

2.5 Wayside Pits and Quarries

"It is the policy of the Province of Ontario that official plans permit wayside pits and quarries without requiring an amendment to the plan or zoning by-law except the plan may require a rezoning for a wayside pit or quarry in areas of existing development or particular environmental sensitivity which are designated in the plan."

Discussion

Wayside pits and quarries suit a simple planning and approval process because they:

- are important in minimizing the taxpayers' costs for public works;
- are usually small in size, are of a short term duration and consequently cause less environmental effects;
- are often required at relatively short notice; and
- are often located in lower quality deposits and sometimes in remote areas where the establishment of long-term operations under normal procedures could not be economically justified.

Official plan policies should provide the following:

- a definition of wayside pits and quarries; and
- a policy(ies) which permits wayside pits and quarries throughout the municipality or planning area without requiring a plan amendment, and without a zoning amendment except possibly in areas of existing development or areas designated as environmentally sensitive in the official plan.

In areas where aggregate resources are of low quality or very scarce, including wayside pit and quarry policies in an official plan is important due to the need for earth borrow type materials for road fill purposes.

Wayside pits and quarries established for the Ministry of Transportation and Communications road projects are processed through joint MNR-MTC procedures. Early consultation with municipalities is required to ensure minimal adverse impacts on the social and natural environment and cost effective control and rehabilitation.

Official plans may include policies setting out land use planning concerns which the planning authority may wish the Ministry of Natural Resources and/or the Ministry of Transportation and Communications (as appropriate) to consider or accommodate in the selection process and the issuance of permits for wayside pits and quarries.

2.6 Rehabilitation

"It is the policy of the Province of Ontario that official plans may require rehabilitation to an after-use compatible with the long-term uses permitted by the plan."*

Discussion:

Rehabilitation is required for pits and quarries in areas designated under the Pits and Quarries Control Act. Municipalities in these areas may propose official plan policies requiring additional rehabilitation measures.

Due consideration must be given to the requirements of other provincial policies. For example, the Foodland Guidelines, or its successor, contains policies on rehabilitation of pits and quarries in specialty crop lands and other prime agricultural land.

In areas where the Pits and Quarries Control Act does not apply, rehabilitation policies in the official plan are important since, otherwise, no rehabilitation would be required.

Official plans in any area can include policies that:

- encourage progressive rehabilitation;
- outline how rehabilitation standards will be adopted and enforced (e.g. regulatory by-law under the Municipal Act);
- specify after-uses for rehabilitated sites; and

* In parts of Ontario designated under the Pits and Quarries Control Act, rehabilitation is mandatory.

- encourage the wise use of remaining resources in, and rehabilitation of, abandoned pits or quarries through their re- activation as temporary wayside operations.

Municipalities may also consider official plan rehabilitation policies for wayside pits and quarries. MTC rehabilitation standards should also be considered.

Progressive rehabilitation is carried out as extraction occurs on the same site. By this process the operation is gradually made suitable for its proposed after-use. Where it is possible, progressive rehabilitation helps minimize adverse impacts of the operation, is less expensive and generally more effective than leaving rehabilitation to the end of the life of the pit or quarry.

3. ZONING BY-LAWS

3.1 Legally Existing Pits and Quarries

"It is the policy of the Province of Ontario that zoning by-laws regulate all legally existing pits and quarries in such a way that these operations are a permitted activity with no uses or other activities permitted within the zoning category that would be incompatible with mineral aggregate operations."

Discussion:

A zoning by-law implementing an official plan with adequate mineral aggregate policies can incorporate the following provisions:

- Definitions of a pit, quarry, wayside pit and wayside quarry.
- A specific extractive zoning category for all legally existing pits and quarries OR a general land use zone permitting their operation, associated activities and compatible uses (and prohibiting all incompatible uses).
- Permitted uses in the extractive zone should include aggregate extraction, and associated uses and activities such as crushing, screening and washing operations, stockpiling, storage sheds, weigh scales, office, parking, etc. Municipalities may consider controlling uses such as asphalt plants, concrete batching plants and aggregate transfer stations through a separate zoning category.
- Mineral aggregate resource areas identified and protected in the official plan should be zoned so that uses incompatible with future extraction are not permitted.

- Pit and quarry operations can be regulated in zoning by-laws in two ways. First, by defining the uses prohibited or permitted in a zone. Second, by setting standards such as minimum yard requirements and maximum height.

3.2 Zoning By-Laws With No Supporting Mineral Aggregate Official Plan Policies

"It is the policy of the Province of Ontario that zoning by-laws in those municipalities not subject to an official plan, protect mineral aggregate deposits identified by the Ministry of Natural Resources in conjunction with the municipality, by placing these lands in a zoning category which prohibits uses that are incompatible with possible future extraction."

Discussion:

In areas without official plans, pits and quarries can be zoned as in areas with official plans. However, there is no municipal policy guidance to help council decide which lands should be protected and zoned for future extraction. One way of proceeding is to place the aggregate resource lands in an extractive zone which permits pits and quarries, associated activities and compatible uses (and prohibits all incompatible uses). This allows pits and quarries to establish throughout the zone without the municipality being able to exercise any site specific location control and it does not identify or define individual pits and quarries. If a municipality has not identified the aggregate resource lands in an official plan, defining these areas in a zoning schedule could be a difficult task.

It is difficult to protect aggregate resources and pits and quarries in a zoning by-law which does not have supporting official plan policies. This is because there is no guidance or control on the amendments which can be made to the zoning by-law to permit uses which are incompatible with extraction or resource protection.

3.3 Wayside Pits and Quarries

"It is the policy of the Province of Ontario that zoning by-laws permit wayside pits and quarries in all zoning categories, except in zones which are established to recognize existing development or areas of particular environmental sensitivity, where wayside pits and quarries may be prohibited."

Discussion:

A zoning by-law should permit wayside pits and quarries as a permitted use in all zones (i.e. without requiring an amendment). However, wayside pits and quarries may be prohibited in areas where they would be incompatible with existing zoned development or environmentally sensitive zones.

The first of these is the fact that the system is not a simple one. It is a complex system, and the behavior of the system is not linear. The system is a complex system, and the behavior of the system is not linear.

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4. GLOSSARY

- "Pit" means a place where unconsolidated gravel, stone, sand, earth, clay, fill, mineral or other material is being or has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside pit.
- "Quarry" means a place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.
- "Wayside pit" or "wayside quarry" means a temporary pit or quarry opened and used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way.

